

PEARSON, J.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ANDREW J. KOCAK, JR.,	)	CASE NO. 4:11CV02734
	)	
Plaintiff,	)	
	)	JUDGE BENITA Y. PEARSON
v.	)	
	)	
JAMES P. FELTNER, <i>et al.</i> ,	)	
	)	<b><u>MEMORANDUM OF OPINION AND</u></b>
Defendants.	)	<b><u>ORDER</u></b> (Resolving ECF No. 7, 12)

A county sheriff's office is not a legal entity capable of being sued for purposes of § 1983. *See e.g., [Yahnke v. Nixon](#), Case No. 1:10CV1470, 2010 WL 3420650 (N.D. Ohio Aug. 27, 2010); [Petty v. County of Franklin, Ohio](#), 478 F.3d 341 (6th Cir. 2007); [Brett v. Wallace](#), 107 F.Supp.2d 949, 954 (S.D. Ohio 2000) (“[T]he Sheriff's Office is not a proper legal entity and, therefore, is not subject to suit or liability under 42 U.S.C. § 1983.”); [Rhodes v. McDannel](#), 945 F.2d 117, 120-21 (6th Cir.1991) (“The Sheriff's Department is not a legal entity subject to suit.”); [Elkins v. Summit County, Ohio](#), Case No. 5:06CV3004, 2008 WL 622038 (N.D. Ohio Mar. 5, 2008) (explaining in an action for a § 1983 violation and related state law violations, the court recognized that administrative units of a local government, such as a municipal police department, are not *sui juris* because they cannot be sued absent positive statutory authority and Ohio does not have such a law.)*

Based on the above-stated law, it is clear that neither Plaintiff/Counterclaim Defendant Andrew Kocak (“Kocak”) nor Defendant/Third Party Plaintiff James Feltner (“Feltner”) may maintain the current action against the Sheriff's Office. *See [ECF Nos. 1, 11](#)*. As such, Kocak

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and Feltner cannot prove a set of facts against the Sheriff's Office warranting relief.

Consequently, the Sheriff's Office must be dismissed from this matter pursuant to Fed. Civ. R. 12(b)(6).

Because dismissal is warranted, the Court grants Defendant Mahoning County Sheriff's Department's Motion to Dismiss ([ECF No. 7](#)) in it's entirety; and Defendants Mahoning County Sheriff, Randall A. Wellington and John/Jane Doe Deputies' Motion to Dismiss ([ECF No. 12](#)) in part.

IT IS SO ORDERED.

March 13, 2012

Date

/s/ Benita Y. Pearson

Benita Y. Pearson

United States District Judge